

BOARD OF COMMUNITY HEALTH  
December 14, 2006

The Board of Community Health held its regularly scheduled meeting in the Floyd Room, 20<sup>th</sup> Floor, West Tower, Twin Towers Building, 200 Piedmont Avenue, Atlanta, Georgia. Board members attending were Richard Holmes, Chairman; Ross Mason, Vice Chairman; Mark Oshnock, Secretary; Bruce Cook; Mary Covington; Inman C. "Buddy" English, M.D.; Kim Gay; and Ann McKee Parker, Ph.D. Commissioner Medows was also present. (A List of Attendees and Agenda are attached hereto and made official parts of these Minutes as Attachments # 1 and # 2).

**Approval of Minutes**

Mr. Holmes called the meeting to order at 10:43 a.m. The Minutes of the November 9, 2006 meeting were UNANIMOUSLY APPROVED AND ADOPTED.

**Chairman's Comments**

During his opening comments Mr. Holmes said the Board would receive committee reports as well as several departmental updates including a Certificate of Need (CON) 101 briefing. Mr. Holmes said the CON Commission has been working for about a year looking at the whole process and he thought it would be good for the board members to be refreshed on what is Certificate of Need and how it works. He said the CON Commission will issue a report to the Governor and Legislature during the upcoming Legislative Session. He said the board also will discuss several public notices and there will be some items at the end of the meeting for further discussion.

**Committee Reports**

Mr. Holmes asked Kim Gay, Chairman of the Care Management Committee, to report on today's committee meeting. Ms. Gay said she had the opportunity to meet with the three CMOs along with Kathy Driggers and Chip Cantrell of DCH. She said she was impressed with each organization and their operations. She said there were a few glitches the CMOs have been working through, but she thinks they are working hard to overcome those glitches. Ms. Gay said she was impressed with CMOs' outreach programs. Each outreach program is different but seems to be very effective and is using very creative ways to reach and educate members. They all have common issues that they are trying to resolve — pregnancy, asthma, diabetes, specialists and subspecialists. She said Ms. Driggers gave an update on claims received. On average claims are paid in 22 days. The total amount of denied claims is at 38% which is a little high, and the Department will continue monitoring the results.

Mr. Holmes asked Mr. Oshnock, Chairman of the Audit Committee, to give a summary of today's committee meeting. He said the Audit Committee met with BKR Metcalf Davis Mauldin and Jenkins, the joint venture audit firm that completed the audit of the June 30, 2006 financial statements for the Department. For the second consecutive year the Department received a clean opinion. The auditors reviewed their audit findings. Similar to last year there were two carryover findings that were material and the committee discussed those with the auditors. There was a new finding relating to contracting which was also discussed in detail with the auditors and management team. He said overall they had a complete meeting and addressed the issues.

**Commissioner's Comments**

Mr. Holmes asked Commissioner Medows to give remarks. She said she had several items that are of critical importance. She began with the status of PeachCare for Kids, Georgia's SCHIP program. She said in the past she and the CFO have talked about the financial status of PeachCare and the federal shortfall that the Department is facing. When the board last met, the Department talked about the shortfall and the need going from this point up to the next federal fiscal year which starts in October. The Department estimates that number to be a \$131 million federal fund shortfall. Part of that need will be addressed by recent legislation—the bill that passed Congress to address a portion of that shortfall. This legislation will address PeachCare for Kids need from March to possibly May or June. Without that shortfall funding, the Department would have run out of money and the program would have stopped for all PeachCare children March 1, 2007. The Department needs funding that lasts all the way through to October. Dr. Medows said Governor Perdue has spent a great amount of time talking to the White House, the Georgia Congressional

Delegation, and Secretary Leavitt. In the meantime she said she has met with members of the Georgia Congressional Delegation as well as other members of Congress. She said Georgia is one of 17 states facing a shortfall now. Next year the number of states facing a shortfall with the existing federal allotment formula would increase. Dr. Medows asked the board to contact members of Congress and encourage them to make SCHIP a priority when the 110<sup>th</sup> Congress convenes in January. She said if others are inclined to communicate with members of Congress, she asked to include in the message three things; 1. complete funding for the shortfall for 2007 to get through the federal fiscal year; 2. reauthorize the program so that SCHIP continues; and 3. address the flaw in the funding formula to address maintenance of effort. Dr. Medows said Senator Johnny Isakson and Congressman John Barrow have been incredibly supportive.

Dr. Medows said another issue of critical importance in terms of priority is CON Reform and she would defer to Robert Rozier for a review.

The third issue is the State Health Benefit Plan (SHBP) and the recent news articles and buzz about OPEB (Other Post Employment Benefits). She said the Department has collected data and tried to get an estimate on how much the State of Georgia's responsibility will be. Georgia has researched what other states have been doing to try resolving this issue. What the state has not done is decided on a solution because that will take input across the board—that is addressing how the State will handle current and future retiree benefits. On December 18, she said she will hold the first of many stakeholder meetings with benefit managers for state employees and educators.

Dr. Medows said changes in provider fees are another critical issue. In Georgia some industry groups tax themselves and that money is then used as a state portion for federal matching funds. There was an administrative proposal from the federal government to reduce provider fees from 6% to 3%. In the tax bill that just passed, a cap was placed on how low that could be reduced administratively by the Centers for Medicare and Medicaid Services. For this first year it will remain at the 6% upper limit. In 2008, the cap will be reduced to 5.5%. This concluded the Commissioner's comments.

Mr. Holmes said although Dr. Medows asked the board to contact the Georgia Congressional Delegation regarding PeachCare for Kids and the federal shortfall, he asked the board, as a collective body, to issue a resolution in support of SHIP and outline Dr. Medows' three concerns relative to SCHIP.

#### **Department Updates - Certificate of Need**

Mr. Holmes called on Robert Rozier, Director, Division of Health Planning, to give a briefing on the CON process. He commended Mr. Rozier and his staff for providing data and facilitating the CON Commission meetings, particularly the last meeting that was held on St. Simons Island. Mr. Holmes said he thought all Commission members worked very, very hard in trying to address the issues. He said the Commission did not come to a unanimous agreement on everything but worked very hard together. He said at the end of the day it was about care for the citizens of Georgia.

Mr. Rozier reviewed the following:

- What is Certificate of Need—the official determination that a new or expanded health care service or facility is needed in Georgia;
- The goals of the CON program—to ensure that adequate health care services and facilities are available to the citizens of the state, are developed in an orderly and economical manner and provided in a manner in which there is no unnecessary duplication of health care facilities and services, and ensure that healthcare services are only approved if they are found to be in the public interest;
- What health care services require a CON;
- How to obtain a CON—the application process, filing fees and the review period;
- How is a CON application reviewed--general considerations and service specific considerations;
- What happens at the end of the review process and the appeals process;
- What are CON exemptions;
- What are differences between CON and LNR (Letter of Nonreviewability) Processes; and
- What are some departmental sanctions for failing to comply with CON laws.

After addressing questions from the Board, Mr. Rozier concluded his presentation. (A copy of the Introduction to Certificate of Need presentation is attached hereto and made an official part of these Minutes as Attachment # 3).

### **Department Updates – CFO**

Mr. Holmes called on Carie Summers, Chief Financial Officer, to present the public notices. Ms. Summers said three public notices are being presented for final consideration. These public notices were amended based on feedback from the board. The amendments were to create opportunities for public comment prior to the December meeting so that the board would have the benefit of reading both public testimony and written comment that the Department received, the summary of those comments and the Department's response to those points.

The Children's Intervention Services and Children's Intervention School Services Public Notice is for services on and after January 1, 2007. It is specific to CPT Code 92507 which is Treatment of Speech, Language, Voice, Communication and/or Auditory Processing Disorder, Individual. The current payment is \$39.55 and this proposal would increase the rate to \$47.82 per unit. That cost is about \$1 million in total funds with \$346,590 in state funds and \$39,508 in local funds from Boards of Education participating in the Children's Intervention School Services Program. The original Appropriations Act did give the Department \$346,590 in state funds in the 2006 Legislative Session. House Bill 1027 reflected an increase to that particular code up to \$62.53. Because the \$62.53 could not be funded with the dollars that were provided, the Department made an adjustment at the direction of the Office of Planning and Budget; as a result the Department will increase the payment rate from \$39.55 to \$47.82. Ms. Summers reviewed the comments received on this public notice.

- The first comment related to the fact that the code was changed from a timed code to an episode code in Medicaid policy previously resulting in decreased reimbursement since many providers had billed for more than one unit per visit. She said that is correct but was not relevant to the particular change in this public notice.
- The second comment related to CMO implementation, reimbursement and prior approval process. Those comments have been referred to the Division of Managed Care and Quality but are not relevant to this rate change.
- The last comment related to the fact that the Department did not increase the rates to \$62.53 as was noted in the FY 07 Appropriations Act. The commenter requested additional funds be made available to provide that specific rate increase. Ms. Summers said the Department would need about \$745,000 in state funds to be able to accommodate that request. Given the directives from the Governor's Office of Planning and Budget to stay within the Department's budget on this particular item, the Department is increasing the rate to \$47.82 which the original appropriation can support.

Ms. Summers and Mark Trail, Chief, Medical Assistance Plans, addressed questions from the Board. Dr. Parker MADE a MOTION to approve the Children's Intervention Services and Children's Intervention School Services Public Notice. Mr. Mason SECONDED the MOTION. Mr. Holmes called for votes; votes were taken. The MOTION WAS UNANIMOUSLY APPROVED. (A copy of the Children's Intervention Services and Children's Intervention School Services Public Notice is attached hereto and made an official part of these Minutes as Attachment # 4).

Ms. Summers continued with the Inpatient Hospital Services Public Notice. House Bill 1066 requires the Department of Human Resources to expand its newborn screening program to identify additional metabolic and genetic disorders. The Department will, through the fee-for-service program, pay an additional \$40 per baby born under the Medicaid program to cover the cost of the newborn screening effective for dates of service on and after January 1, 2007. This change is estimated to increase annual expenditures by approximately \$2.3 million in total funds and \$900,000 in state funds which is the amount appropriated to the Department. There were no public or written comments submitted to the Department. Dr. Parker MADE a MOTION to approve the Inpatient Hospital Services Public Notice. Mr. Mason SECONDED the MOTION. Mr. Holmes called for votes; votes were taken. The MOTION WAS UNANIMOUSLY APPROVED. (A copy of the Inpatient Hospital Services Public Notice is attached hereto and made an official part of these Minutes as Attachment # 5).

Ms. Summers said the Psychiatric Residential Treatment Facilities Public Notice is to establish a rate setting methodology for Psychiatric Residential Treatment Facilities (PRTF).

This is a new program that the Department is implementing as a result of a CMS review of the current Therapeutic Residential Intervention Services (TRIS) Program. The TRIS Program currently offers six levels of care; Level One is the least intensive and Level Six is the most intensive. The bundle of services in Level Six provided through TRIS will now be covered by PRTFs. As a result, the Department has to set a rate setting methodology in order to compensate these particular treatment facilities. The Department is proposing to reimburse facilities on a prospective provider specific per diem based on individual costs as reported on a cost report. There is a cap of \$299.80 per day that is being recommended. Currently there are about five providers that have submitted cost reports that are eligible to participate in the program and have set rates. The Department received both written comments and public testimony.

- The first comment relates to the fact that the proposed methodology caps payment at \$299.80 per day and for some providers that is not enough to cover their costs as reported on their cost report. Ms. Summers said while the Department recognizes that, the issue of \$299.80 is related to the level of care (Level Six payment) that was previously made. Since this is a budget-neutral change to address CMS concerns and because the DHR, which funds the state matching share for this program, has not received additional funding from the state to make this transition, DCH believes the \$299.80 needs to remain as the cap in order to live within budget parameters.
- The second comment related to using a statewide weighted average perspective rate instead of going to provider specific rates. The Department is rejecting this suggestion. The Department has had conversations with CMS about this particular rate setting methodology. One of CMS' criticisms in the past has been providers have been paid in excess of cost; that is why the Department is keeping it at a provider specific methodology.
- The third comment is related to recognizing in the methodology for proprietary providers the use of equity financing for capital expenditures. Currently the Department does not do this in other provider facility based programs and is not recommending recognition in the PRTF methodology.
- The fourth comment relates to PRTF admission criteria. Commenters believe admission criteria are too restrictive and may not reflect the child's severe emotional disturbances or need for PRTF placement. Ms. Summers stated that this comment is not relevant to this particular public notice since the notice only deals with rate setting. Those comments have been referred to DHR for operational and programmatic considerations.
- The last comments related to the timing of the PRTF implementation. Commenters expressed concern about the aggressive nature of a January 1 effective date. The Department concurs that this is a tight timeline; however, because of the agreement with CMS to address the issues in the TRIS Program, this is the first corrective step. Ms. Summers pointed out that while the notice authorizes an effective date on or after January 1, the Department will have to get final approval for the state plan from CMS, although it would be retrospectively effective back to January 1. Ms. Summers and Mr. Trail addressed questions from the board concerning the effective date. Mr. Trail said the difficulty the state has faced is that the federal government has not made any payments to Georgia for this program for about 15 months. DCH is \$200 million in arrears in payment from the federal government to the State. The State has been working with CMS for one year to develop a satisfactory resolution to the audit findings relative to the operation of TRIS. This public notice is one of the pieces of the negotiations. Mr. Trail said the State has been working and will continue to work with the provider community to help them with the transition. The State's and CMS' plan and agreed upon timeline is to move forward with the PRTF part in the first quarter of the calendar year. During the second quarter of the calendar year is when the State will be moving the rest of the system which is over 150 more providers to either the rehabilitation option or some other form of reimbursement.

Mr. Cook expressed concern about the admission criteria and asked for feedback from DHR.

Ms. Covington MADE a MOTION to approve the Psychiatric Residential Treatment Facilities Public Notice. Mr. Mason SECONDED the MOTION. Mr. Holmes called for votes; votes were taken. The MOTION WAS UNANIMOUSLY APPROVED. (A copy of the Psychiatric Residential Treatment Facilities Public Notice is attached hereto and made an official part of these Minutes as Attachment # 6).

Ms. Summers continued with the Nursing Home Services Public Notice, which is a rate change to the Medicaid Nursing Home Services program. It is a provider financed

reimbursement change effective for dates of service on and after January 7, 2007, subject to board and CMS approval. The change to the reimbursement for nursing services would include three things:

1. The rate would reflect an increase in the nursing home provider fee from \$9.15 per day to \$12.21 per day of which the proceeds of the increase would be used to fund the cost of this entire notice;
2. The growth allowance that is used to compute reimbursement rates will be increased from 0% to 3% and those inflation indices are applied to the 2005 cost reports; and
3. An incentive fee will be paid to providers who meet specific criteria for quality measures as determined by the Department. This will increase total expenditures about \$72 million in total funds annually and \$26.7 million in state funds which are provider fees. Public comment will be taken on December 18, 2:00 p.m., and written comment will be accepted until December 29. Mr. Holmes said this public notice was released earlier at his authorization to attempt to make this notice effective as soon as possible; today's action would approve the public notice to be published for public comment.

Ms. Summers addressed questions and comments from the board concerning rate increases and the need for a comprehensive review of rates. Ms. Summers said her division is currently taking inventory of all rate setting methodologies for every provider group to try getting a sense of where are the overwhelming needs for adjustments. She added that the historical pattern on these kinds of rate increases has typically been driven by the appropriations process. A discussion ensued. Ms. Gay MADE a MOTION to publish for public comment the Nursing Home Services Public Notice. Ms. Covington SECONDED the MOTION. Mr. Holmes called for votes; votes were taken. The MOTION WAS UNANIMOUSLY APPROVED. (A copy of the Nursing Home Services Public Notice is attached hereto and made an official part of these Minutes as Attachment # 7).

### **New Business**

Mr. Holmes asked the board to consider issuing a resolution or some recognition for Dr. Robert A. Lipson, who is now deceased, for his past service to the Board of Community Health and the State of Georgia. Mr. Holmes shared a draft resolution with the board for their review and consideration.

Mr. Holmes announced that the January board meeting will be held in the Floyd Room, 20<sup>th</sup> Floor, West Tower, Twin Towers Building, 200 Piedmont Avenue, Atlanta, Georgia.

### **Adjournment**

There being no further business to be brought before the Board at the meeting Mr. Holmes adjourned the meeting at 12:25 p.m.

THESE MINUTES ARE HEREBY APPROVED AND ADOPTED THIS THE \_\_\_\_\_

DAY OF \_\_\_\_\_, 2007.

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RICHARD L. HOLMES  
Chairman

ATTEST TO:

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MARK D. OSHNOCK  
Secretary

Official Attachments:

- #1 List of attendees
- #2 Agenda
- #3 Introduction to Certificate of Need presentation
- #4 CIS and CISS Public Notice
- #5 Inpatient Hospital Services Public Notice
- #6 Psychiatric Residential Treatment Facilities Public Notices
- #7 Nursing Home Services Public Notice